

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rolando Vasquez	Team: Squad #13	CCRB Case #: 201901942	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 02/28/2019 8:50 AM	Location of Incident: [REDACTED]	Precinct: 67	18 Mo. SOL 8/28/2020	EO SOL 4/14/2021	
Date/Time CV Reported Mon, 03/04/2019 11:53 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 03/04/2019 11:53 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. Officers			067 PCT
2. SGT Steven Schilling	01598	951220	067 PCT
3. DTS Devin Baker	1595	952439	067 PCT
4. SSA Charles Schwartz	05458	947478	067 PCT
5. POM Hector Casillas	30712	952552	067 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Davinder Singh	16997	958073	067 PCT
2. POM Flagumy Valcourt	06178	954389	067 PCT
3. SGT David Grieco	03830	940216	067 PCT
4. DTS Matthew Walker	18702	959352	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SSA Charles Schwartz	Force: In front of 2502 Cortelyou Road in Brooklyn, Sergeant Charles Schwartz pointed his gun at § 87(2)(b) [REDACTED]	[REDACTED]
B.DTS Devin Baker	Force: In front of 2502 Cortelyou Road in Brooklyn, Detective Devin Baker pointed his gun at § 87(2)(b) [REDACTED]	[REDACTED]
C.SSA Charles Schwartz	Abuse: At the 67th Precinct stationhouse, Sergeant Charles Schwartz threatened § 87(2)(b) [REDACTED] with the arrest of § 87(2)(b) [REDACTED]	[REDACTED]
D.SSA Charles Schwartz	Abuse: At the 67th Precinct stationhouse, Sergeant Charles Schwartz threatened to damage § 87(2)(b) [REDACTED]'s property.	[REDACTED]
E.SGT Steven Schilling	Abuse: At 2421 Clarendon Road, in Brooklyn, Sergeant Steven Schilling detained § 87(2)(b) [REDACTED]	[REDACTED]
F.SGT Steven Schilling	Abuse: At 2421 Clarendon Road, in Brooklyn, Sergeant Steven Schilling detained § 87(2)(b) [REDACTED]	[REDACTED]
G.SGT Steven Schilling	Abuse: At 2421 Clarendon Road, in Brooklyn, Sergeant Steven Schilling detained § 87(2)(b) [REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
H.POM Hector Casillas	Abuse: Police Officer Hector Casillas entered § 87(2)(b) in Brooklyn.	
I.POM Hector Casillas	Abuse: Police Officer Hector Casillas searched § 87(2)(b) in Brooklyn.	
J. Officers	Abuse: Officers entered § 87(2)(b) in Brooklyn.	
K. Officers	Force: Inside § 87(2)(b), in Brooklyn, officers pointed their guns at individuals.	

Case Summary

On March 4, 2019, § 87(2)(b) filed this complaint via the CCRB's website on behalf of herself and her husband, § 87(2)(b) and her sons, § 87(2)(b) and § 87(2)(b).

On February 28, 2019, at about 8:50 a.m., § 87(2)(b) was walking with § 87(2)(b) in the vicinity of 2502 Cortelyou Road in Brooklyn when Sgt. Charles Schwartz and Det. Devin Baker, both of the 67th Precinct, approached with their guns pointed at § 87(2)(b) (**Allegations A-B: Force, § 87(2)(g)**). § 87(2)(b) was arrested and taken to the 67th Precinct stationhouse. At the stationhouse, Sgt. Schwartz allegedly threatened § 87(2)(b) with the arrest of his mother (**Allegation C: Abuse of Authority, § 87(2)(g)**). Sgt. Schwartz allegedly threatened to damage § 87(2)(b)'s property (**Allegation D: Abuse of Authority, § 87(2)(g)**). Soon after, Sgt. Steven Schilling of the 67th Precinct went to § 87(2)(b) in Brooklyn and detained § 87(2)(b) and her two sons, § 87(2)(b) and § 87(2)(b) (**Allegations E-G: Abuse of Authority, § 87(2)(g)**). PO Hector Casillas of the 67th Precinct, acting under the authority of a search warrant, entered and searched § 87(2)(b) in Brooklyn (**Allegations H-I: Abuse of Authority, § 87(2)(g)**). Officers allegedly entered § 87(2)(b) in Brooklyn (**Allegation J: Abuse of Authority, § 87(2)(g)**). Officers allegedly pointed their guns at individuals inside § 87(2)(b) in Brooklyn (**Allegation K: Force, § 87(2)(g)**).

§ 87(2)(b) and § 87(2)(b) were arrested as a result of this incident. The Office of Court Administration has no records of the dispositions of the associated criminal cases.

Body worn camera video of the incident was obtained and is attached to IAs #68-89 and summarized in IA #96 (BR18).

Findings and Recommendations

Allegation (A) Force: In front of 2502 Cortelyou Road in Brooklyn, Sergeant Charles Schwartz pointed his gun at § 87(2)(b)

Allegation (B) Force: In front of 2502 Cortelyou Road in Brooklyn, Detective Devin Baker pointed his gun at § 87(2)(b)

§ 87(2)(b) testified that he was walking with his wife, § 87(2)(b) to his car to drive her to work (BR01). § 87(2)(b) is a black man and was wearing a black sweat-suit and a red jacket. An unmarked vehicle stopped ahead of § 87(2)(b) and three officers, identified by the investigation as Sgt. Schwartz, Det. Baker, and Det. Walker, exited the vehicle. Sgt. Schwartz and Det. Baker pointed their guns at § 87(2)(b). Det. Baker handcuffed § 87(2)(b) and placed him in the back of the police. § 87(2)(b) was arrested for menacing and taken to the 67th Precinct stationhouse. § 87(2)(b) later learned that his ex-girlfriend, § 87(2)(b) had filed a false report that he had threatened her with a gun, which he learned about after he was arrested. § 87(2)(b) denied having any interactions with § 87(2)(b) on this date.

Event documents related to this incident show that § 87(2)(b) called 911 and reported that § 87(2)(b) a black man dressed in a black hoodie and red jacket, was at Cortelyou Road and East 25th Street, and that he had a gun and threatened to kill her (BR02).

Starting at 00:30 of Sgt. Schwartz's BWC video player timestamp (visible at the bottom of the screen), Sgt. Schwartz is seen pointing his gun at § 87(2)(b) as Sgt. Schwartz approaches him (BR03). At 00:30 in Det. Baker's BWC video (video player timestamp visible at the bottom of the screen), Det. Baker is seen pointing his gun at § 87(2)(b) as Det. Baker approaches him (BR04). Det. Walker handcuffs § 87(2)(b).

Sgt. Schwartz and Det. Baker provided the following consistent testimony. While on patrol, they responded to the above noted radio run. They encountered § 87(2)(b) who pointed out to them the direction § 87(2)(b) went. § 87(2)(b) got into another patrol car and a canvass was conducted in the area for § 87(2)(b). § 87(2)(b) pointed out § 87(2)(b) to the officers around the corner from where § 87(2)(b) was picked up. Sgt. Schwartz and Det. Baker pointed their guns at § 87(2)(b) as they approached him because, based on the radio run they were responding to, they believed he was armed with a gun and dangerous. The officers holstered their guns after § 87(2)(b) was handcuffed.

The decision to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is present. NYPD Patrol Guide, Procedure 221-01 (BR07).

§ 87(2)(g)
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§ 87(2)(g)

Allegation (C) Abuse of Authority: At the 67th Precinct stationhouse, Sergeant Charles Schwartz threatened § 87(2)(b) with the arrest of § 87(2)(b)

Allegation (D) Abuse of Authority: At the 67th Precinct stationhouse, Sergeant Charles Schwartz threatened to damage § 87(2)(b)'s property.

§ 87(2)(b) testified that he was brought to the 67th Precinct stationhouse and lodged in a holding cell. Shortly thereafter, Sgt. Schwartz, Det. Walker, and Det. Baker brought § 87(2)(b) to a separate room. Sgt. Schwartz asked § 87(2)(b) where his gun was. § 87(2)(b) told Sgt. Schwartz that he did not have a gun. Sgt. Schwartz said, "We're going to lock your mother up and your mother's going to be in jail if you don't tell us where the gun is." § 87(2)(b) told Sgt. Schwartz that his mother was elderly. Sgt. Schwartz said he did not care and that, "If you don't tell me about the guns, if you don't tell me what's going on with the guns, we're going to destroy your house. We're waiting for the warrant; the warrant's coming in."

Sgt. Schwartz, Det. Baker, and Det. Walker all testified that § 87(2)(b) was debriefed in the stationhouse and questioned about the whereabouts of any guns (BR05-07). The officers were unable to provide any specific information about the substance of the conversation, including what responses § 87(2)(b) gave. Sgt. Schwartz denied that he threatened § 87(2)(b) with the arrest of his mother, and he denied threatening to damage § 87(2)(b)'s property. Det. Baker and Det. Walker did not remember if Sgt. Schwartz made any threats to § 87(2)(b) during the debriefing.

§ 87(2)(g)

Allegation (E) Abuse of Authority: At § 87(2)(b), in Brooklyn, Sergeant Steven Schilling detained § 87(2)(b)

Allegation (F) Abuse of Authority: At § 87(2)(b), in Brooklyn, Sergeant Steven Schilling detained § 87(2)(b)

Allegation (G) Abuse of Authority: At § 87(2)(b), in Brooklyn, Sergeant Steven Schilling detained § 87(2)(b)

Allegation (H) Abuse of Authority: Police Officer Hector Casillas entered § 87(2)(b)

in Brooklyn.

Allegation (I) Abuse of Authority: Police Officer Hector Casillas searched § 87(2)(b)

in Brooklyn.

§ 87(2)(b) testified that while he was lodged in a holding cell at the stationhouse, § 87(2)(b) and his two step-sons, § 87(2)(b) and § 87(2)(b) were brought to the stationhouse. § 87(2)(b) was informed by § 87(2)(b) that officers entered their apartment and removed everyone found therein to the stationhouse.

§ 87(2)(b) said that Sgt. Schwartz told her that a complaint was filed about § 87(2)(b) having a gun (BR08). After § 87(2)(b) was arrested, § 87(2)(b) went home, and few hours later, Sgt. Schilling and other officers knocked on her door. § 87(2)(b) opened the door and Sgt. Schilling entered the apartment. Sgt. Schilling said the officers were going to search the home. § 87(2)(b) said the officers needed a warrant. Sgt. Schilling said, “Okay.” § 87(2)(b) and § 87(2)(b) were then transported to the 67th Precinct stationhouse. Later that same day, while still at the stationhouse, § 87(2)(b) was told that a search warrant had been obtained for her home, and that she was being charged with possession of a katana sword and daggers, which were found in her dresser. § 87(2)(b) and § 87(2)(b) were released without being charged with any offense.

§ 87(2)(b) and § 87(2)(b) were uncooperative with the investigation (See IAs for contact attempts).

On § 87(2)(b), PO Casillas obtained Kings County search warrant #§ 87(2)(b), issued by Supreme Court Judge § 87(2)(b). The warrant authorized the entry and search of the first floor apartment of § 87(2)(b) in Brooklyn for a handgun, handgun ammunition, handgun accessories, and information regarding the ownership and recent occupation of the location (BR09).

Sgt. Schilling testified that he went to § 87(2)(b) after a search warrant had been obtained in order to freeze the location (BR12). A search warrant execution team had to be assembled, and there was an interest in preventing people from coming and going from the apartment due to the reported gun at the location. When Sgt. Schilling got to the apartment, he spoke with § 87(2)(b) who let him inside. Sgt. Schilling told § 87(2)(b) and her sons that they were going to be brought to the stationhouse until the police investigation concluded.

Officers may enter and search premises for which they have obtained a valid search warrant. New York Criminal Procedure Law, Article 690.50 (BR13). Officers may detain the occupants of a residence for which a valid search warrant has been obtained. Boyd v. City of New York, 19 A.D 3d 683 (2017) (BR14).

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation (J) Abuse of Authority: Officers entered § 87(2)(b) in Brooklyn.

Allegation (K) Force: Inside § 87(2)(b) in Brooklyn, officers pointed their guns at individuals.

§ 87(2)(b) testified that he heard from another resident of the building that officers entered the third floor studio apartment of his apartment building and pointed their guns at the occupants inside. § 87(2)(b) did not have identifying information or contact information for the residents of the third floor of § 87(2)(b) and these individuals were unavailable to the investigation (See IAs for contact attempts and database searches).

None of the BWC footage captures officers going to the third floor of the apartment building.

Sgt. Schwartz, Sgt. Schilling, Det. Baker, and Det. Walker testified that they had no knowledge of any officer going to the third floor of the building, and they each denied doing so themselves.

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) and § 87(2)(b) are a party (BR15).
- Sgt. Schwartz has been a member of the service for 11 years and has been a subject in eight CCRB complaints involving 16 allegations, none of which were substantiated. [REDACTED]
§ 87(2)(g)
- Det. Baker has been a member of the service for seven years and been a subject in 13 CCRB complaints involving 27 allegations, none of which were substantiated. [REDACTED]
§ 87(2)(g)
- Sgt. Schilling has been a member of the service for eight years and has been a subject in two CCRB complaints involving three allegations, none of which were substantiated. [REDACTED]
§ 87(2)(g)

- PO Casillas has been a member of the service for seven years and has been a subject in five CCRB complaints involving 11 allegations, none of which were substantiated. ■

§ 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was unsuitable for mediation.
- The NYC Office of the Comptroller has no record of a Notice of Claim having been filed about this incident (BR16).

§ 87(2)(b)

Squad No.: 13

Investigator:	<u>Rolando Vasquez</u> Signature	<u>SI Rolando Vasquez</u> Print Title & Name	<u>04/21/2020</u> Date
Squad Leader:	<u>Laura Kastner</u> Signature	<u>IM Laura Kastner</u> Print Title & Name	<u>04/21/2020</u> Date